

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of

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GN Docket No. 25-133

To: The Commission

**COMMENTS OF
HANDS UP INTERPRETING**

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SUMMARY

The Telecommunications Relay Service Fund (The “TRS Fund”) is a multi-billion dollar fund administered by the Federal Communication Commission (The “Commission”) originally intended to ensure the nationwide telecommunications network was accessible by deaf and hard of hearing users. This fund was established to cover “telephone transmission service[s]”¹, which were left undefined within Title IV of the Americans With Disabilities Act (the “ADA”). “[T]elephone transmission service” is a term of limitation which limits the scope covered by Title IV of the ADA.

This Commission has continually and consistently expanded the scope of “telephone transmission services” in effort both to expand the scale of the TRS Fund and expand the scope of allowable charges to the TRS fund – most recently in its rule on *Access to Video Conferencing*, 89 Fed. Reg. 100878 (Dec. 13, 2024). In this Rule, the Commission expanded TRS funding to Interoperable Video Conferencing Systems (IVCS) calls by asserting that such systems qualify as ‘telephone transmission services’ under the TRS framework. The Commission has conceded their liberal interpretation rests on their consistent broad interpretation of the term and thereby on *Chevron* deference². This broad interpretation diverges both from the plain meaning of the term and from statutory intent found within the Congressional Record. Additionally, because Title IV of the ADA amends Title II of the Communications Act of 1934 (the “Communications Act”)—and courts have consistently limited Title II to traditional common carrier services³—“telephone transmission service” must be construed narrowly; absent any clear congressional intent to expand the scope of Title II of the Communications Act, Title

¹ 47 U.S.C. § 225(a)(3).

² *Chevron U.S.A., Inc. v. Natural Resources Defense Council, Inc.*, 467 U.S. 837 (1984).

³ See *Vonage Holdings Corp. v. MINNESOTA PUBLIC UTIL.*, 290 F. Supp. 2d 993 (D. Minn. 2003).

IV of the ADA cannot be extended to cover IP-based technologies. Courts have additionally indicated a similarly broad understanding of “telecommunications services”⁴ within the Communications Act were underpinned by *Chevron* and thus should be narrowed after *Loper Bright*⁵. The current interpretation used by the Commission is *ultra vires* its statutory authority⁶. Even if such a redefinition were plausible, the Commission’s interpretation fails under the Major Questions Doctrine⁷. The broad interpretation of “telephone transmission service” has caused harm by allowing TRS Fund recipients to unfairly compete with the private sector. We argue:

- I. The Commission has expanded the scope of the TRS fund and “telephone transmission service” resting its justification primarily on *Chevron* deference.
- II. A broad interpretation is not permissible solely due to technological advancements.
- III. The current interpretation of “telephone transmission service” exceeds its plain meaning, original legislative intent, and judicial interpretation—raising concerns under the Major Questions Doctrine.
- IV. This expanded scope has allowed TRS funded services to unfairly compete with private sector agencies.

In response to the FCC’s request for comments, we therefore submit these comments in support of a narrow construction of “telephone transmission services.” The Commission’s broad

⁴ 47 U.S.C. § 153(53)

⁵ See the pre-*Loper Bright* holding in *National Cable & Telecommunications Ass’n v. Brand X Internet Services*, 545 U.S. 967 (2005) (considering net neutrality) contrasted with the post-*Loper Bright* holding in *Ohio Telecom Ass’n v. FCC*, No. 24-3449 (6th Cir. 2025) (which provides narrower interpretation for “telecommunications service”).

⁶ We note that the Commission’s recent rulemaking—*Access to Video Conferencing*, 89 Fed. Reg. 100878 (Dec. 13, 2024)—has not been subject to judicial review. As such, it does not carry the force of judicial precedent and is not entitled to *stare decisis*. The Commission’s interpretation of “telephone transmission service” remains untested under the standards now required in the post-*Chevron* legal environment.

⁷ See *West Virginia v. EPA*, 597 U.S. 697, 721 (2022) (“We presume that Congress intends to make major policy decisions itself, not leave those decisions to agencies.”);

interpretation deviates from the plain language of the statute and the unambiguous congressional intent, resulting in an impermissible regulatory overreach. Accordingly, we respectfully urge the Commission to reverse its erroneous interpretation and restore the scope of “telephone transmission services” to its congressionally intended meaning.

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Congress established the Telecommunications Relay Service Fund under Title IV of the Americans with Disabilities Act (the “ADA”) to ensure that individuals with hearing and speech disabilities have access to a functionally equivalent telecommunications network. Central to this framework is the concept of “telephone transmission service,”⁸ a statutory term that limits the scope of services eligible for Telecommunications Relay Service Fund (“TRS Fund”) reimbursement. However, the Federal Communication Commission (the “Commission”) has steadily and impermissibly broadened the interpretation of this term past its intended meaning—most recently through its rule on *Access to Video Conferencing* 89 Fed. Reg. 100878 (Dec. 13, 2024)—to cover services far beyond what Congress originally contemplated. This recent expansion is at odds with the statutory text, congressional intent, and recent court holdings and thereby implicates the Major Questions Doctrine⁹, as it reinterprets a key statutory term to authorize significant new obligations and funding uses absent clear congressional authorization.

⁸ 47 U.S.C. § 225(a)(3).

⁹ See *West Virginia v. EPA*, 597 U.S. 697, 721 (2022) (“We presume that Congress intends to make major policy decisions itself, not leave those decisions to agencies.”);

I. THE COMMISSION HAS EXPANDED THE SCOPE OF THE TRS FUND AND TELEPHONE TRANSMISSION SERVICE RESTING ITS JUSTIFICATION PRIMARILY ON *CHEVRON* DEFERENCE.

1. In *Access to Video Conferencing*, the Commission argued

“As for telephone transmission service, which is not defined in the [ADA], the Commission has given this term a broad interpretation, noting that it is constrained only by the requirement that such service provide a specific functionality, namely the ability to communicate by wire or radio in a manner functionally equivalent to voice communication. Further, section 225 of the [ADA] directs the Commission to “ensure that regulations prescribed to implement this section encourage, consistent with section 7(a) of [Title IV of the ADA], the use of existing technology and do not discourage or impair the development of improved technology.” 47 U.S.C. 225(d)(2). For example, in prior decisions authorizing new forms of TRS, the Commission has repeatedly found that internet-based relay services are not limited to a specific technical configuration, and has not interpreted telephone transmission service as requiring the use of telephone numbers.”¹⁰

2. As noted by the courts in *Loper Bright*¹¹, deference is not owed to a commission's prior consistent interpretation. Instead, one must look to the best interpretation of a given term. Much of the Commission's argument for their current scope of “telephone transmission service” rests on the Commission’s past “repeated [findings]”¹² and consistent “broad interpretation”¹³.

¹⁰ *Access to Video Conferencing*, 89 Fed. Reg. 100,878, 100,887 (Dec. 13, 2024).

¹¹ See *Loper Bright Enterprises v. Raimondo*, 603 U.S. 369 (2024).

¹² *Access to Video Conferencing*, 89 Fed. Reg. at 100,887.

¹³ *Id.*

Even assuming, *arguendo*, deference was owed to the Commission's past findings, the Commission erred in its conclusion: providing service within Interoperable Video Conferencing Systems (“IVCS”) is fundamentally different from providing service within a broader TRS context.

3. The Commission erroneously claims that they have “not interpreted telephone transmission service as requiring the use of telephone numbers”¹⁴. However, all non-IVCS TRS based services are centered around interoperating with the broader telephone network and telephone infrastructure. Indeed, all other TRS funded services are designed around calling a hearing individual and connecting with their phone via their NANP 10-digit number. To call an individual using Internet Protocol Captioned Telephone Service (“IP CTS”), for example, requires the IP CTS provider to interoperate with the Public Switched Telephone Network (“PSTN”) to contact the hearing individual’s phone.

4. Setting aside this error, the Commission argues their broad interpretation is permissible primarily because (i) the term is not defined within the ADA (and has been given a consistently broad interpretation by the Commission), (ii) the term should only be constrained by functional requirements, and (iii) Section 255(d)(2) of Title IV of the ADA directs the Commission to not discourage or impair the development of improved technology.

5. As we argued above, (i) is rendered moot by *Loper Bright*, which forecloses deference to prior interpretations. Per (ii), the Commission is incorrect: statutory interpretation requires each term and word to be given due effect¹⁵. The Commission’s reading effectively

¹⁴ *Id.*

¹⁵ See *Duncan v. Walker*, 533 U.S. 167 (2001) (“This Court's duty to give effect, where possible, to every word of a statute”).

reads out “telephone” from “telephone transmission service”. Congress chose to use the word “telephone”, which has a plain non-technical meaning¹⁶, as opposed to “telephonic” or “auditory”.

6. Congress is not unfamiliar with internet based services. Indeed, courts have interpreted the terms “information services” and “telecommunications service” within the Communications Act (which the Title IV of the ADA amends) as effectively demarcating IP-based calling from Plain Old Telephone Service (“POTS”) based calling¹⁷. Yet, within Title IV of the ADA, Congress elects to only¹⁸ use the term “telephone transmission service”. If Congress intended for a functional definition to be used, “telephone transmission service” would have been defined in reference to its functional requirements¹⁹. Instead, Congress chose to state:

“The term “telecommunications relay services” means telephone transmission services that provide the ability for an individual who has a hearing impairment or speech impairment to engage in communication by wire or radio with a hearing individual in a manner that is functionally equivalent to the ability of an individual who does not have a hearing impairment or speech impairment to communicate using voice communication services by wire or radio. Such term includes services that enable two-way

¹⁶*Taniguchi v. Kan Pacific Saipan, Ltd.*, 566 U.S. 560 (2012) (“When a term goes undefined in a statute, we give the term its ordinary meaning”).

¹⁷See *Vonage Holdings Corp. v. MINNESOTA PUBLIC UTIL.*, 290 F. Supp. 2d 993 (D. Minn. 2003). Additionally contrast the pre-*Loper Bright* holding in *National Cable & Telecommunications Ass’n v. Brand X Internet Services*, 545 U.S. 967 (2005) with the post-*Loper Bright* holding in *Ohio Telecom Ass’n v. FCC*, No. 24-3449 (6th Cir. 2025) (which provides a narrower interpretation for “telecommunications service”).

¹⁸*Keene Corp. v. United States*, 508 U.S. 200 (1993) (“[W]here Congress includes particular language in one section of a statute but omits it in another ... , it is generally presumed that Congress acts intentionally and purposely in the disparate inclusion or exclusion”).

¹⁹ See *Dean v. United States*, 556 U.S. 568 (2009) (“[W]e ordinarily resist reading words or elements into a statute that do not appear on its face.”); and *Whitman v. American Trucking Associations, Inc.*, 531 U.S. 457 (2001) (“Congress [...] does not, one might say, hide elephants in mouseholes”).

communication between an individual who uses a TDD or other nonvoice terminal device and an individual who does not use such a device.”²⁰

7. In this provision, “telephone transmission services *that*”²¹ (emphasis added) is a limiting term, used to constrain the scope of “telecommunication relay services”. By using “that”, a restrictive clause, Congress signaled the intended reading of this provision is that a “telecommunication relay service” is a service which meets two criteria: (a) the service is a “telephone transmission services” and (b) the service “provide[s] the ability for an individual [...]”²². We expand on the congressional intent in the subsequent section.

8. Additionally, any attempt to expand the scope of Title IV of the ADA to authorize the use of TRS funds for non-telephonic purposes—contrary to the statute’s plain meaning—requires a clear and unambiguous statement from Congress. Under the Major Questions Doctrine²³, such a significant policy shift cannot rest on vague or ancillary statutory language²⁴.

9. Turning to (iii), standard statutory interpretation does not support reading section 225(d)(2) as a refinement or clarification of Section 225(a)(3). Rather, it is a directive to the Commission. Nothing in 47 U.S.C. § 225(d)(2)—or elsewhere in the statute—suggests Congress intended it to clarify any part of the statute. If that were the intent, Congress could have written,

²⁰ 47 U.S.C. § 225(a)(3)

²¹ *id.*

²² *id.*

²³ See *West Virginia v. EPA*, 597 U.S. 697, 721 (2022) (“We presume that Congress intends to make major policy decisions itself, not leave those decisions to agencies.”); *FDA v. Brown & Williamson Tobacco Corp.*, 529 U.S. 120 (2000) (rejecting expansive agency authority absent clear congressional authorization).

²⁴ See *Whitman v. American Trucking Assns., Inc.*, 531 U. S. 457, 468 (2001) (“Congress, we have held, does not alter the fundamental details of a regulatory scheme in vague terms or ancillary provisions—it does not, one might say, hide elephants in mouseholes.”); see also *FDA v. Brown & Williamson Tobacco Corp.*, 529 U. S. 120, 160 (2000) (“[W]e are confident that Congress could not have intended to delegate a decision of such economic and political significance to an agency in so cryptic a fashion”).

“The provisions within this Statute shall be interpreted to ensure...” Instead, it directed the Commission to “ensure that regulation prescribed [...] [is] consistent with section 157(a)”²⁵.

II. A BROAD INTERPRETATION IS NOT PERMISSIBLE SOLELY DUE TO TECHNOLOGICAL ADVANCEMENTS

10. The Commission contends that a broad interpretation supports technological progress. However, (i) a narrower reading of Section 225(a)(1) would only exclude IVCS, (ii) Congress never signaled an intent to expand the term’s scope in this way, and (iii) courts have reversed similarly expansive interpretations of the Communications Act following *Loper Bright*. Even supposing these policy concerns were valid, such policy concerns do not justify unmooring the interpretation of the statute from its congressional intent²⁶.

(i) A narrower reading would only exclude IVCS.

11. The Commission argues a narrow interpretation would exclude recent developments such as IP CTS and undermine TRS innovation as a whole. This overstates the impact; a narrower reading of Section 225(a)(1) would still support modern TRS technologies such as IP CTS and Video Relay Service (“VRS”) as they are tethered and interoperate with the telephone. Only IVCS, which departs from the traditional architecture, would fall outside that statutory bounds. This line, based on interoperability with a telephone network, is additionally beneficial from a policy perspective. As argued in Section IV on private-sector competition, this delineation would allow TRS to prosper, while simultaneously ensuring TRS-funded services do not compete with the private sector.

²⁵ 47 U.S.C. § 225(d)(2).

²⁶ See *West Virginia v. EPA*, 597 U.S. 697, 721 (2022) (“We presume that Congress intends to make major policy decisions itself, not leave those decisions to agencies.”);

(ii) *Congress never signaled an intent to expand the term's scope.*

12. The ADA was amended in 2008²⁷ to broaden the definition of “disability,” reflecting Congress’s intent to ensure the law kept pace with evolving understandings of disability rights. However, notably, Congress made no changes to Title IV of the ADA. This omission is significant: between the ADA’s original enactment in 1990 and its amendment in 2008, telecommunications technology had evolved dramatically. By 2008, internet-based communication platforms such as Skype and Webex were already widely used, offering real-time voice and video communication over the internet. Yet despite the availability and regular use of these platforms, Congress chose not to expand the scope of Title IV of the ADA to encompass such services. This suggests a deliberate decision to preserve the original focus of Title IV of the ADA on services tied to the traditional telephone network, rather than redefining “telephone transmission services” to include internet-based applications.

(iii) *Courts have reversed similarly expansive interpretations of the Communications Act following Loper Bright.*

13. In *National Cable & Telecommunications Ass’n v. Brand X Internet Services* 545 U.S. 967 (2005), the Supreme Court held that the Commission had the authority to classify certain offerings as a “telecommunications service”²⁸ under Title II of the Communications Act – a conclusion grounded in *Chevron* deference. The Commission has drawn on similar logic to classify IVCS calls as “telephone transmission services” under Title IV of the ADA, which amends Title II of the Communications Act. In light of *Loper Bright*, courts reversed their ruling. In *Ohio Telecom Ass’n v. FCC*, No. 24-3449 (6th Cir. 2025), courts held that despite the

²⁷ See ADA Amendments Act of 2008, Pub. L. No. 110-325, 122 Stat. 3553 (2008).

²⁸ 47 U.S.C. § 153(53)

Commission's prior consistent broad interpretation of “telecommunications services”, the Commission lacked authority to regulate Broadband Internet Service Providers as “telecommunications services”.

III. THE CURRENT INTERPRETATION OF “TELEPHONE TRANSMISSION SERVICE” EXCEEDS ITS PLAIN MEANING, ORIGINAL LEGISLATIVE INTENT, JUDICIAL INTERPRETATION—RAISING CONCERNS UNDER THE MAJOR QUESTIONS DOCTRINE.

14. Determining the scope of “telephone transmission service” is paramount to determining the scope of Title IV of the ADA broadly. The ADA restricts Title IV to oversee only “telephone transmission services”. To determine the appropriate scope of “telephone transmission service”, we consider the (i) plain meaning of the term, (ii) the original legislative intent, and (iii) the scope of similar terms as interpreted by the courts.

Plain Meaning

15. Under the Commission's reading of the ADA, the understanding of “telephone transmission service” currently encompasses any system which transmits voice over wire or network. The Commission used this broad scope to claim that interoperable video services fall under the scope of TRS compensation.

16. “When a term goes undefined in a statute, we give the term its ordinary meaning”²⁹. However, the Commission's definition needlessly diverges from the plain meaning of a “telephone”, which would colloquially be understood in context of interoperability with a

²⁹ *Taniguchi v. Kan Pacific Saipan, Ltd.*, 566 U.S. 560 (2012)

telephone network (typically via a NANP ten-digit phone number). Under this plain meaning of “telephone” and “telephone transmission service”, an IVCS call which did not interoperate with telephonic networks would not be considered as a “telephone”, and therefore should be ineligible for receiving TRS compensation.

Statutory Intent

17. As “laws [should be construed] in harmony with the legislative intent and seek to carry out legislative purpose.”³⁰, to understand “telephone transmission service[s]”, we should consider legislative intent surrounding Title IV of the ADA. To understand the legislative intent of the ADA, we examine the Congressional Record³¹. The Congressional Record is replete with the congressional intention of Title IV of the ADA; it was intended to cure a deficiency within the telephone transmission network and allow hearing and speech impaired individuals to interact with this network. In particular, it was framed as an extension of the Communications Act. Observe, for example, the words of Edward J. Markey:

“Today the subcommittee will examine legislation designed to bridge the gaps in our Nation's telecommunications system that have been unwillingly created by an insensitive and unsympathetic society. This bill will guarantee communications for impaired Americans and for those people with speech or hearing disabilities, equal access to the Nation's telecommunications networks. At present, there are many times, often when it matters the most, that a hearing-impaired person simply cannot use the telephone.

Imagine not being able to call home from a friend's house, or use the phone in someone else's office, or even call 911 outside your home in an emergency. Well, for many of the

³⁰ *Foster v. United States*, 303 U.S. 118, 120 (1938).

³¹ Americans with Disabilities: Telecommunications Relay Services: Hearing Before the Subcomm. on Telecommunications and Finance of the H. Comm. on Energy and Commerce, 101st Cong. (1989).

Nation's 26 million hearing-impaired persons, this is not some far fetched nightmare. It is a daily reality. The enactment of the Communications Act of 1934, with the goal of universal service for all Americans, we in the Congress have been trying to ensure that all Americans have access to the phone. Today this goal is more important than ever because information and communications drive our society. The telephone is no more a luxury item, but an essential part of our everyday lives. Our link to the rest of the world. The legislation that we are considering today will bring the communications impaired much closer to the realization of the universal service goal, and open up an entire new market of consumers. In essence, this bill will enable the communications impaired to use the telephone for the same purposes the rest of the population has come to take for granted.”³²

18. From this excerpt, we can observe the focus of the discussion was centered on the telecommunication network and “phone[s]”³³. The Congressional Record is devoid of any mention of the Commission's functional approach. Rather, Congress was focusing on curing the existing telecommunication network and allowing deaf and hard of hearing users to “use the telephone”.

19. We can additionally observe that the intention was for this title IV to harmonize with the Communications Act. This harmonization is further evidenced by the enacting clause of Title IV of the ADA which explicitly states that it “[amends] Title II of the Communications Act of 1934 (47 U.S.C. 201 et seq.) by adding at the end thereof the following new section”³⁴.

Judicial Interpretation

³² *Id.*

³³ *Id.*

³⁴ Americans with Disabilities Act of 1990, Pub. L. No. 101-336, § 401, 104 Stat. 327, 366 (1990).

20. As previously noted, Title IV of the ADA was enacted with the specific purpose of addressing deficiencies within Title II of the Communications Act, as evidenced by its express amendment to that title. It must be presumed Congress intentionally placed Title IV of the ADA within Title II of the Communications Act—rather than Title I for example—thus intending all Title II’s scope limitations to apply equally to Title IV of the ADA. Therefore, we should turn our attention to the Communications Act and the scope of Title II of the Communications Act. Absent clear congressional authorization, it is unlikely that Congress intended Title IV of the ADA to extend beyond the boundaries of the statute it amends³⁵.

21. In *Vonage Holdings v. Minn. Pub. Utilities Com’n*³⁶ and related cases³⁷, courts have been clear that Title II of the Communications Act (and “telecommunications service”³⁸ as contemplated by Title II of the Communications Act) was intended to only cover traditional telephone services: “Congress has expressly stated that [IP based calling] are not to be regulated under Title II of the Telecommunications Act.”³⁹ Because Title II does not encompass IP-based calling, and Title IV does not explicitly expand its scope, it follows that the amendments introduced in Title IV do not contemplate such services. Accordingly, Telecommunications Relay Services (TRS) should exclude services based on IP-based calling — including video conferencing systems.

22. Congress did not expand Title II’s statutory framework to encompass internet-based calling by employing the undefined ancillary term “telephone transmission

³⁵ See *Gonzales v. Oregon*, 546 U.S. 243, 262 (2006) (“The idea that Congress gave [an agency] such broad and unusual authority through an implicit delegation in the [statute] is not sustainable.”)

³⁶ *Vonage Holdings Corp. v. MINNESOTA PUBLIC UTIL.*, 290 F. Supp. 2d 993 (D. Minn. 2003).

³⁷ See the contrast between the pre-*Loper Bright* holding in *National Cable & Telecommunications Ass’n v. Brand X Internet Services*, 545 U.S. 967 (2005) with the post-*Loper Bright* holding in *Ohio Telecom Ass’n v. FCC*, No. 24-3449 (6th Cir. 2025) (which provides narrower interpretation for “telecommunications service”).

³⁸ 47 U.S.C. § 153(53)

³⁹ *Vonage Holdings Corp. v. MINNESOTA PUBLIC UTIL.*, 290 F. Supp. 2d 993 (D. Minn. 2003).

service”⁴⁰. Consequently, the proper interpretation of this term under Title IV of the ADA must adhere to the constraints established by Title II of the Communications Act, which Title IV of the ADA amends. Any effort to extend its scope to cover internet-based calling without explicit congressional authorization surpasses the Commission’s legally granted authority and is therefore *ultra vires*⁴¹ and raises serious constitutional concerns under the separation of powers doctrine⁴².

IV. THIS EXPANDED SCOPE HAS ALLOWED TRS FUNDED SERVICES TO UNFAIRLY COMPETE WITH PRIVATE SECTOR AGENCIES.

23. Commenters noted that the expansion of TRS into IVCS spaces would threaten private sector interpreting agencies. These concerns were dismissed by the Commission as speculative:

“A commenter objects to the Commission's approach to integrating VRS with video conferencing services, claiming that authorizing TRS Fund compensation for VRS integrated with video conferencing platforms will “nationalize” the ASL interpreting industry, putting out of business many Video Remote Interpretation (VRI) services, who currently provide translation services for conference calls. Such speculative concerns do not justify prohibiting or delaying the integrated provision of VRS in video conferences.

The rules adopted here do not prohibit video conference hosts or participants from using

⁴⁰ See *Whitman v. American Trucking Assns., Inc.*, 531 U. S. 457, 468 (2001) (“Congress, we have held, does not alter the fundamental details of a regulatory scheme in vague terms or ancillary provisions—it does not, one might say, hide elephants in mouseholes.”); see also *FDA v. Brown & Williamson Tobacco Corp.*, 529 U. S. 120, 160 (2000) (“[W]e are confident that Congress could not have intended to delegate a decision of such economic and political significance to an agency in so cryptic a fashion”).

⁴¹ See *La. Pub. Svc. Comm'n v. FCC*, 476 U.S. 355 (1986) (“an agency literally has no power to act, [...] unless and until Congress confers power upon it”)

⁴² See *West Virginia v. EPA*, 597 U.S. 697, 721 (2022) (“The agency instead must point to “clear congressional authorization” for the power it claims.”)

non-VRS interpretation services. Indeed, the Commission expects that VRI will be preferred for video conferences, as VRI interpreters employed by a video conference host generally will have more opportunity to prepare, and are more likely to have expertise in the specific subject matter of a video conference. Many organizers and hosts of video conferences calls have obligations under the ADA or other laws to provide accommodations for people with disabilities, including English-to-ASL interpretation, for which the use of VRS often may not be suitable.”⁴³

24. The Commission fundamentally misunderstood the concerns raised. The concern here is not pertaining to the businesses who provision VRI; indeed, the Commission is correct, in that businesses can still provision VRI interpreters. The concern rather surrounds deaf and hard of hearing users and VRI agencies who, apart from the rights conferred under the ADA as discussed below, possess limited means to influence the structure and delivery of these services. We have already seen these concerns play out: with the proliferation of Sorenson for Zoom, we have already seen clients leave VRI agencies in favor of using federally funded solutions. Indeed, asking businesses to pay \$2-3/minute with a 30 minute minimum when a free and immediate solution is one button press away is a nearly impossible ask.

25. Nothing in the Congressional Record indicates that Congress intended Title IV of the ADA to supplant private-sector interpreting. Instead, the intent of Title IV was to provide interpreters where ones could not be meaningfully provisioned. The goal was simply to allow the “communications impaired to use the telephone”⁴⁴. Additionally, Because Title IV of the ADA

⁴³ Access to Video Conferencing, 89 Fed. Reg. 100,878, 100,888 (Dec. 13, 2024).

⁴⁴ Americans with Disabilities: Telecommunications Relay Services: Hearing Before the Subcomm. on Telecommunications and Finance of the H. Comm. on Energy and Commerce, 101st Cong. (1989).

amends Title II of the Communications Act, which does not encompass IP-based calling⁴⁵, TRS should not include services like video conferencing that rely on internet-based communication.

26. The Commission is also mistaken about the purported competitive advantage of VRI. In contexts like workplace accommodations—where interpreters are often called on-demand from a pool of available interpreters with little notice—VRI interpreters are typically no more specialized than VRS interpreters and have limited opportunity to prepare. As such, the argument that VRI interpreters “hav[e] expertise in the specific subject matter”⁴⁶ is inapplicable.

27. The argument that “Many organizers and hosts of video conferences calls have obligations under the ADA or other laws to provide accommodations for people with disabilities, including English-to-ASL interpretation, for which the use of VRS often may not be suitable”⁴⁷ is similarly misguided. A vast majority of case law and infractions of Title II and Title III of the ADA surround *providing no interpreters*. Scant few cases cover *providing unqualified interpreters*, with no cases covering VRS interpreters not being an effective auxiliary aid. To argue for a Title III violation, for example, one would need to argue, that an interpreter which is qualified for providing communication “functionally equivalent to the ability of an individual who does not have a hearing impairment”⁴⁸ (as contemplated by Title IV of the ADA) is insufficient for providing communication “equal to that afforded to other individuals”⁴⁹ (as contemplated by Title III of the ADA).

⁴⁵See *Vonage Holdings Corp. v. MINNESOTA PUBLIC UTIL.*, 290 F. Supp. 2d 993 (D. Minn. 2003). Additionally contrast the pre-*Loper Bright* holding in *National Cable & Telecommunications Ass’n v. Brand X Internet Services*, 545 U.S. 967 (2005) with the post-*Loper Bright* holding in *Ohio Telecom Ass’n v. FCC*, No. 24-3449 (6th Cir. 2025) (which provides a narrower interpretation for “telecommunications service”).

⁴⁶ Access to Video Conferencing, 89 Fed. Reg. 100,878, 100,888 (Dec. 13, 2024).

⁴⁷ *id.*

⁴⁸ 47 U.S.C. § 225(a)(3).

⁴⁹ 42 U.S.C. § 12182 (b)(1)(A)(ii).

28. Title IV of the ADA was enacted to ensure that individuals with hearing or speech disabilities have access to a functionally equivalent telephone service—not to authorize a restructuring of the interpreting marketplace. Extending the statute to reach such services – particularly those that compete with private-sector offerings and carry significant economic implications – absent clear congressional authorization, impermissibly broadens the scope of the Commission’s delegated authority⁵⁰.

V. CONCLUSION

The Commission’s recent interpretation of “telephone transmission service” departs dramatically from the statutory text, legislative history, and the longstanding judicial construction of the Communications Act—construction that now governs unmediated by *Chevron* deference in the wake of *Loper Bright*. Title IV of the Americans with Disabilities Act was enacted to ensure that individuals with hearing and speech disabilities have access to the national telephone network—not to subsidize general-purpose internet-based communications or services that mirror private-sector offerings. The Commission’s reliance on past agency interpretation, now foreclosed by *Loper Bright*, and its invocation of technological neutrality under section 225(d)(2), cannot justify an expansion so far afield from Congress’s intent.

This expansion not only conflicts with the plain meaning and statutory context of the term “telephone transmission service,” but it also exceeds the limited authority delegated to the Commission—rendering the action *ultra vires*. Title IV of the ADA was enacted as an amendment to Title II of the Communications Act, and judicial precedent has consistently interpreted Title II as confining regulatory authority to traditional common carrier services –

⁵⁰ See *West Virginia v. EPA*, 597 U.S. 697, 721 (2022) (“We presume that Congress intends to make major policy decisions itself, not leave those decisions to agencies.”); *FDA v. Brown & Williamson Tobacco Corp.*, 529 U.S. 120 (2000) (rejecting expansive agency authority absent clear congressional authorization).

particularly in light of recent rulings that no longer defer to agency interpretations absent clear congressional authorization. The statutory language and legislative history provide no basis for extending Title IV to encompass standalone internet-based applications, such as interoperable video conferencing systems. As a result, the Commission’s redefinition authorizes TRS Fund allocations to entities that directly compete with private-sector interpreting agencies, thereby destabilizing sustainable service delivery models and compromising the TRS Fund’s integrity. Under the Major Questions Doctrine, any broad expansion of statutory meaning demands clear congressional authorization—a threshold that is plainly unmet in this instance.

Accordingly, Hands Up Interpreting respectfully urges the Commission to reverse course and restore the scope of “telephone transmission service” to its congressionally intended meaning—tethered to the telephone network and grounded in the legislative purpose of ensuring functionally equivalent access to telephony for deaf and hard of hearing users.

Respectfully Submitted,

Hands Up Interpreting

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